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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

November 1, 1994

EX PARTE OR LATE FILED

Hon. Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Re: Amendment of Part 74 of the Commission's Rules With Regard to Instructional Television Fixed Service - MM Docket No. 93-24 -- Written Ex Parte Communication

Dear Chairman Hundt:

I am writing to express the strong support of The Microband Companies Incorporated ("Microband") for the proposal in the reply comments of The Wireless Cable Association International, Inc. ("WCAI") that the Commission refrain from taking any action at this time that would permit Instructional Television Fixed Service ("ITFS") stations to be more closely-spaced than is permitted under the Commission's current rules.

Microband owns and operates a wireless cable system that currently serves over 25,000 subscribers from its transmission headend at the Empire State Building in New York City. Because of extensive ITFS usage in the New York metropolitan area, Microband is currently able to offer subscribers access to only five full-time Multipoint Distribution Service channels and 12 part-time ITFS channels, as well as available off-air signals. Microband must compete, however, against a myriad of franchised cable systems with much greater channel capacity. While Microband has carved out a niche for itself as the low-cost provider of those programming networks consumers most highly value, Microband's ability to truly provide effective competition in the marketplace hinges in its ability to implement digital compression technology.

In its reply comments, WCAI expressed the view that:

> now is <u>not</u> the time to be making any changes to the Commission's policies regarding ITFS co-channel interference protection that have the effect of permitting closer spacing of ITFS stations than is currently permitted under the 45 dB co-channel interference protection ration specified in Section 74.903 of the Commission's Rules. WCAI's position is grounded in its concern that the licensing of new, closely-spaced ITFS stations will hamper, and perhaps preclude, a smooth transition to digital technology.

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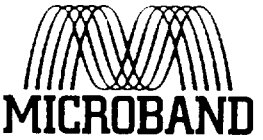

WCAI Reply Comments, at 5. As WCAI addressed in detail, adoption of proposals pending in this proceeding to allow close spacing of ITFS stations through the use of frequency offset techniques could prove disastrous for systems such as Microband's Frequency offset is problematic for two reasons. First, the extent to which frequency offset techniques reduce interference between analog systems has yet to be firmly established. Second, and more importantly, frequency offset techniques do not provide any benefit in a digital environment. It certainly appears that if the Commission authorizes new analog ITFS stations unduly close to existing wireless cable systems through application of frequency offset, the Commission may inadvertently preclude existing systems from transitioning to digital compression technology.

To assure that existing wireless cable system operators are not precluded from implementing digital compression technology, the Commission should reject a proposal advanced by Wireless Holdings, Inc. ("WHI") under which frequency offset could be used to closely space ITFS stations in some circumstances. Ironically, Microband agrees with WHI that "it is premature for the Commission to consider changing the protection ratios in current use" and that "those parameters are of such fundamental importance to ITFS and wireless cable service that they should only be altered after notice from the Commission and the development of a full and complete record." WHI Reply Comments, at 1-2. Microband further agrees with WHI that "the ongoing development of digital video transmission technology and the likelihood that ITFS licensees will convert to such technology in the near future further underscores the need for a fuller record in this matter." Id. at 6.

Given WHI's acknowledgment that the record in inadequate to support any change in the ITFS interference protection ratios at this time, Microband finds incomprehensible WHI's proposal that while the Commission further reviews the issues raised by frequency offset, it nonetheless permit applicants promising to use frequency offset to propose closely spaced ITFS stations that will be co-located with other facilities. See id. at 7. Simply stated, adoption of WHI's proposal could spell doom for Microband and other similarly situated wireless cable operators that contemplate converting to digital technology in the future.

As is the case in many major metropolitan areas, the New York metropolitan area has numerous ITFS stations scattered throughout northern New Jersey, Brooklyn, Queens, and Westchester and Nassau Counties that pre-date the development of Microband's system. As a general proposition, these stations are not co-located with other facilities, and operate with low power from antennas mounted relatively close to the ground, minimizing the prospects for co-channel interference. Microband's wireless cable system has been carefully designed with these stations in mind. Microband and the licensees from whom Microband leases channel capacity have assured that the Commission's ITFS receive site interference protection ratios are met or have entered into agreements with the licensees of these scattered ITFS stations to implement mutually acceptable technical alternatives.

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Adoption of WHI's proposal could doom Microband's ability to convert to digital technology. Were the Commission to accept applications proposing additional ITFS stations at any of these ITFS sites scattered throughout the region, the care Microband has exercised in designing its system would be undercut. Simply put, Microband may not be able to protect a new generation of closely spaced analog ITFS stations when Microband is ready to convert to digital technology. As WHI itself acknowledges, not enough is known at present regarding the interference protection criteria that will be appropriate when stations propose to convert to digital technology. What is known, however, is that the frequency offset techniques that may permit close spacing of analog stations do not yield any benefits in a digital environment.

For these reasons, Microband urges the Commission to adopt WCAI's approach and refrain from adopting rules that will permit the close spacing of ITFS stations until there is a full and complete technical record regarding the costs and benefits of frequency offset technology.

Respectfully submitted,

William K. Hoffman
Senior Vice President
and General Counsel

cc: Hon. James Quello
Hon. Andrew Barrett
Hon. Rachelle Chong
Hon. Susan Ness
Roy Stewart
Barbara Kreisman
Office of the Secretary